In *Cruise* v. *Terrell* Warrington L.J. at page 672 said of such a tenant that "It is quite clear that a person holding over is not to be treated as a trespasser". Scrutton L.J. at page 673 said "until an order was obtained against him, a tenant stayed on not as a trespasser."

It is true that our Rent Ordinance is not in *pari materia* with the English Rent Acts and that the two English cases above referred to dealt with the effect of section 15 of the English 1920 Act, in particular section 15(1), the material portions of which are:—

"A tenant who by virtue of the provisions of this Act retains possession of any dwelling-house to which this Act applies shall, so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Act . . .".

It is also true that the 1920 Act does not define who are statutory tenants whereas section 27 of our Ordinance does so by providing as follows:—

"27. The following persons are statutory tenants under this Ordinance, namely:—

(a) any tenant of premises who remains in possession thereof after the determination by any means of his tenancy and who cannot by reason of the provisions of this Ordinance be deprived of such posssession by his landlord; and

(b) any sub-tenant becoming a statutory tenant under and by virtue of any of the provisions of this Ordinance."

However, this court in the case of *Tan Khio Soei & Anor.* v. *Ban Hin Lee Bank Ltd.*[7] expressly affirmed the judgment of Thomson J. (as he then was) in *Ramasamy Pillai* v. *Meyappa Chettiar* [8] where at page 107 Thomson J. said:—

"I propose to deal with the question of construction in the light of the English authorities for, in my opinion, there is no substance in the argument that because the English Acts do not contain any definition of a statutory tenant as does section 15 of our Ordinance there is thereby some material difference between the law here and the law in England. It is true that the English Acts do not formally define a "statutory tenant" although the expression has been used by the English Courts for very many years. But when it is remembered that the English Acts only apply to dwelling houses and do not provide for any preliminary proceedings before a tribunal corresponding to our Rent Assessment Board, I can find no material difference between the provisions of our section 15 and section 15 of the English Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, which deals with the position of a 'tenant who by virtue of the provisions of this Act retains possession of any dwelling house to which this Act applies'. I can see no material distinction between such a tenant and 'any tenant of premises who remains in possession thereof after the determination by any means of his tenancy and who cannot by reason of the provisions of this Ordinance be deprived of such possession by his landlord'."

In *Tan Khio Soei & Anor.* v. *Ban Hin Lee Bank Ltd., supra,* Thomson L.P., with whose judgment the two other members of the court concurred, said at page 72:—

"In the case of *Ramasamy Pillai* v. *Meyappa Chettiar, supra,* I expressed the view that for reasons which I do not propose to repeat here there is no difference between a statutory tenant under our legislation and a statutory tenant under the English Rent Acts, and I have listened to nothing in the present case which creates any doubt in my mind as to the correctness of that view."

I am therefore of the opinion, adopting the expressions used by Warrington L.J. and Scrutton L.J., that the appellant, until Choor Singh J. made an order for possession against him, cannot be treated as a trespasser. Even if this point had not been considered judicially before I would have come to the same conclusion.

If it were otherwise the position would result that a tenant, whose contractual tenancy had been determined by his landlord who is seeking to obtain an order for possession under any of the grounds specified in section 15(1), would either have to run the risk of having to pay damages as a trespasser if the court is of the opinion that the landlord has made out a case under the section, or have to surrender possession to his landlord. I am of the opinion that section 27(a) ought not to be construed to produce such a result. At best section 27(a) is ambiguous and as it clearly cannot have been the intention of the Legislature by an Ordinance such as the Control of Rent Ordinance to enable landlords of controlled premises to harass tenants or to place tenants in the invidious position of having to suffer a pecuniary penalty by way of damages for the tort of trespass if they elected wrongly by holding over, I would construe it to include a tenant who holds over until a court subsequently decides that the landlord is entitled to an order for possession under one of the grounds specified in section 15(1).

The view I have taken that the appellant was not a trespasser until Choor Singh J. made an order for possession against him therefore renders it unnecessary for me to deal with the rest of the grounds of appeal.

The appellant accordingly succeeds in this appeal to the extent that I would set aside the order that the respondents are entitled to recover against the appellant *mesne profits* to be assessed by means of an enquiry before the registrar.

Tan Ah Tah F.J.: I agree.

Appeal allowed.

Solicitors: *Drew & Napier; Donaldson & Burkinshaw.*

SYED AHMED AL-JUNIED & ORS. v. RESHTY

[F.C. (Thomson L.P., Wee Chong Jin C.J. (Singapore) and Tan Ah Tah F.J.) April 6, 1966]

[Singapore — Federal Court Civil Appeal No. 113 of 1964]

Landlord and Tenant — Controlled premises — Standard rent — Meaning of premises — Rent raised by agreement — No application made to Rent Conciliation

Board — Unlawful increase — Control of Rent Ordinance (Cap. 242.)

This was an appeal against the decision of Choor Singh J. ([1965] 1 M.L.J. 77). The appellants claimed possession of certain controlled premises from the respondent. The standard rent of the premises was $750. The premises consisted of a large piece of land of some 550 acres on which temporary buildings had been erected; many new buildings had been erected on it since September 7, 1947 and the parties had by agreement fixed the rent at $1,300 a month from April 1, 1953 and at $1,400 per month from April 1, 1958. No application was however made to the Rent Conciliation Board. The respondent had counterclaimed for repayment of rents, in excess of the standard rent of $750, received by the appellants. Choor Singh J. gave judgment in favour of the respondent on the counterclaim and the appellants appealed.

Held: the premises in this case consisted of the land with a building or buildings on it and the entity did not become a new entity because more buildings had been erected on it;

(2) the increase of rent in this case had not been sanctioned by the Rent Conciliation Board and therefore the increase was unlawful and the learned trial judge was correct in giving judgment for the recovery of the rents received in excess of the standard rent.

[**Editorial Note:** The Honourable the Lord President who presided at the hearing of the appeal did not sit in the Federal Court when it delivered the reserved judgment in Singapore.]

FEDERAL COURT.

C. L. Duff for the appellants.

J. Grimberg for the respondent.

Cur. Adv. Vult.

Wee Chong Jin C.J. (Singapore): This appeal is connected with F.C. Civil Appeal No. 111 of 1964* and is in respect of a counterclaim by the respondent for the repayment of rents, in excess of the standard rent, received by the appellants.

The appellants in the action were seeking, *inter alia,* to recover possession of certain lands comprising an area of some 550 acres from the respondent. The position taken by both parties by their pleadings and before this court was that the subject matter of the action was premises within the definition of "premises" contained in section 2 of the Control of Rent Ordinance (Cap. 242).

It was never in dispute that the standard rent of the "premises" was $750 a month and that no application was ever made during the period when the respondent was the tenant to the Rent Conciliation Board to vary this standard rent. The parties however by agreement fixed the rent at $1,300 per month from 1st April 1953 and at $1,400 per month from 1st April 1958.

On those facts the trial judge gave judgment in favour of the respondent on her counterclaim and the appellants now appeal against this part of the judgment on the ground that at all material times the premises had suffered a change of identity by virtue of the large addition of new buildings on the land which were built and completed after the 7th September 1947.

It is submitted by counsel for the appellants that by virtue of the many new buildings erected from time to time since 7th September 1947, at some point or other there comes a time when the court will say the premises are substantially changed and that therefore there must be a new standard rent which should be the rent at which the premises were first let after that change of identity.

In the absence of special circumstances which do not exist in this case, it seems to me when a piece of land with a building or buildings on it is let and the land so let comes within the definition of "premises" in section 2 of the Control of Rent Ordinance (Cap. 242), that this piece of land continues to remain controlled premises as long as it continues to be the subject matter of a single letting, notwithstanding that other buildings may have subsequently been erected on it.

It is the land with a building or buildings on it that is the entity in such a case and the entity does not become a new entity simply because more buildings have been erected on it. Any increase in the standard rent must, to be a lawful increase, be one sanctioned by the Rent Conciliation Board on an application made to the board under the provisions of the Control of Rent Ordinance.

For these reasons I would dismiss the appeal on the counterclaim with costs.

Tan Ah Tah F.J.: I agree.

Appeal dismissed.

Solicitors: *Donaldson & Burkinshaw; Drew & Napier.*

* *Ante,* p. 121.

GURBACHAN SINGH v. PUBLIC PROSECUTOR

[A.Cr.J. (Yong J.) April 6, 1966]

[Alor Star — Criminal Appeal No. 83 of 1964]

Bribery and corruption — Whether necessary to show that favour had been shown — Discretion of prosecution to call witnesses — Admission of tape-recorded conversation — Corroboration of accomplice evidence — Allegation that findings of fact by trial court were wrong — Production of police inquiry paper — Claim of privilege by Minister — Privilege claimed over class of documents — Power of court to inspect file and to order production — Prevention of Corruption Act, 1961, s. 4(a).

Evidence — Privileged document — Police inquiry paper.

Evidence — Hearsay — Tape-recorded conversation — Admissibility.

The appellant had been convicted on a charge under section 4(a) of the Prevention of Corruption Act, 1961.